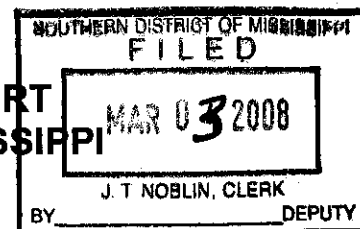


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI



JAMES E. FRYE

Petitioner,

vs.

Docket No.: 4:01-CR-8-2-BN

UNITED STATES OF AMERICA
Respondent.

CERTIFICATE OF FILING

I, James E. Frye, Jr., do hereby certify under penalty of perjury pursuant to Title 28 U.S.C. § 1746, that on February 7, 2008 and February 12, 2008 I placed a copy of my Motion for New Trial Pursuant to Federal Rules of Criminal Procedure Rule 33 and my Motion For Leave to Supplement Motion For New Trial in the Federal Prison's - Legal Mail Box for mailing with sufficient First Class Postage.


Since the pleadings have not been filed by the District Court Clerks Office, they are being resubmitted along with this affidavit to certify the timely filing of the pleadings when submitted to prison authorities for mailing. *See Fallen v. United States*, 378 U.S. 139, 143-44, 84 S.Ct. 1689, 1692, 12 L.Ed.2d 76 (1974)(Fallen recognizes that, once pro se litigants have deposited documents to be filed in the prison mailbox, the 'jailer is in

effect the Clerk of the Court.” *Id.* 378 U.S. at 144, 84 S.Ct. at 1682-83 (Stuart, J., concurring)

I also served the United States Attorney, Richard Starrett, 188 E. Capitol Street, Suite # 500, Jackson, MS 39201 with a copy of the motions as required by the Federal Rules of Civil Procedure Rule 5.

Done this 25, day of February 2008

I hereby do certify that pursuant to Penalty of Perjury Title 28 U.S.C. § 1746 that on this 25 day of February 2008 I signed and mailed this document via the Federal Bureau of Prisons' Legal Mail System.



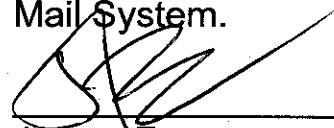
James Frye
Reg. # 98362-024
USP Big Sandy
P.O. Box 2068
Inez, KY 41224

CERTIFICATE OF SERVICE

I HEREBY DO CERTIFY, that a true and correct copy of this Certificate of Filing was mailed to: Richard Starrett, 188 E. Capitol Street, Suite # 500, Jackson, MS 39201 by placing the same in Federal Bureau of Prisons' Legal Mail Box, with sufficient First Class Postage prepaid.

Done this 25, day of February 2008

I hereby do certify that pursuant to Penalty of Perjury Title 28 U.S.C. § 1746 that on this 25 day of February 2008 I signed and mailed this document via the Federal Bureau of Prisons' Legal Mail System.


James Frye
Reg. # 98362-024
USP Big Sandy
P.O. Box 2068
Inez, KY 41224

February 25, 2008

Clerk of Court
316 James O. Eastland
United States Courthouse
245 East Capitol Street
Jackson, MS 39201-2409

RE *Frye v. United States*, 4:01-cr-8-2-BN

Dear Clerk,

On February 7, 2008 I filed a motion for new trial by placing the same in the Federal Prison's Legal Mail Box. Again on February 12, 2008 I also I filed motion for Leave of Court for Leave to supplement the motion once my case file is obtained from my trial attorney. Both motions were mailed clarifying that they were mailed from the Federal Bureau of Prisons. Neither motion has been filed by your office.

Enclosed, please find a duplicate copy of the prior mailed motions via the Federal Prison Legal Mail Box and a Certificate of Filing clarifying the original filing documents.

Should you have any questions or concerns, please feel free to contact me at the address listed below.

Sincerely yours,



James Frye

Reg. # 98362-024

USP Big Sandy

P.O. Box 2068

Inez, KY 41224